

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

MITCHELL HAYWARD BAILEY

Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,
Defendants.

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Civ. No. CC-06-168

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

The United States Magistrate Judge filed her Memorandum and Recommendation on November 21, 2008 (D.E. 69). Notice of the filing was sent to Plaintiff on that date, and Plaintiff has not responded. Defendants move for summary judgment against Plaintiff (D.E. 63).¹ The Magistrate Judge recommends granting summary judgment, as Plaintiff has failed to establish a fact issue on the amount of money that was seized from him at the time of the arrest.

When no timely objection to the Magistrate Judge's Memorandum and Recommendation is filed, the Court need only satisfy itself that there is no "clear error" on the face of the record in order to accept the Magistrate Judge's recommendation. *See Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir.1996) (citing FED. R. CIV. P. 72(b) advisory committee's note (1983)).

Having reviewed the pleadings and motions on file, the Court finds no clear error in the Magistrate Judge's recommendation. The Court accepts the

¹ Defendants' Motion is actually captioned as a Motion to Dismiss (D.E. 63). However, as the parties attach and refer to documents outside the pleadings, the Magistrate Judge notified the parties that the motion would be construed as a motion for summary judgment (D.E. 64). Accordingly, this order will also construe the motion as one for summary judgment.

Magistrate Judge's decision. The Court GRANTS Defendants' motion for summary judgment.

ORDERED this 4 day of March 2009.


HAYDEN HEAD
CHIEF JUDGE